Final Report

A framework for a minerals foundation

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Contents

Executive Summary

This report suggests a framework for a Minerals Foundation to support environmental and social programmes in the Mining belt of Goa. This framework has evolved from a survey of existing Foundations, mining and others, interaction with mining companies and government officials, interviews with representatives of other foundations and consultations with legal and governance experts.

Vision

The Minerals Foundation to be set up collectively by the Goan mining industry will, through its programmes of technical and financial support, enhance the environmental quality, promote social investment programmes, and assist future mining to be conducted in an environmentally responsible manner even as it contributes to economic growth, employment generation and development in the mining region of Goa

Mission statement

To address environmental and social issues concerning communities in the mining belt of Goa through the formulation and implementation of development programmes

Objectives

The general objective is to contribute, in a constructive manner, to the establishment of sustainable development in the mining belt

The more specific objectives are:

- to contribute to the economic and social development of the local community
- To channel the efforts already underway and to pool together activities to improve the environment
- To formalise current efforts and communicate these achievements to the public at large

Type of Foundation

The proposed Minerals Foundation will be a donor and an implementing foundation with its own in-house staff for the implementation of programmes. It will associate itself with non governmental organisations, co-operative societies, research bodies and local communities as per guidelines set.
The legal form of the Foundation will be a society.

Approach

The Foundation will:

- Achieve its objectives by formulating a well-founded and broader understanding of all problem areas, both theoretical and practical, in relation to mining activity
- Promote and carry out investigation/ research and implementation in these areas. It will contribute to a focused development in the mining belt by exchanging information and co-operating with similar initiatives whether national or international and by influencing public opinion at all levels.
- Foster new initiatives aimed at accelerating improved environmental and social development practices in the mining belt, and, contribute to their further refinement.
- While quality of projects is important, this will not be at the expense of spreading the benefits of fund disbursement to a larger group of people.
- Monitoring of progress of projects will be an important component of project activities
- Accountability at all levels will be a cornerstone of the Foundation
- Seek to be transparent in its activities and ensure that information relative to its activities are available to all
- Have a Goa focus, but be mining belt specific.
- Aim at being a nationally recognised, not-for-profit body.
- Wherever, possible consider incremental topping up of governmental efforts to improve mining region conditions, and will also be open to offers from government to assist the Foundation, financially or in kind, in its environmental and social investment programmes.
- Have an indefinite lifetime.
- Have a detailed project review process, which will be communicated to the public.
- Regularly inform the public of its activities through a published annual report and other activities.

Governance

The proposed Foundation will have complete freedom of decision with regard to its activities, subject to it following the programme guidelines and criteria for Foundation activities. The Governing Council will have representation from the GMOEA/GMA, government officials, technical experts and civil society so that effective and workable partnerships can be forged. A Technical Committee will assist the Council.

Project management and review

A Chief Executive Officer (CEO) will be appointed to take responsibility for the management on a daily basis. The CEO can be assisted by an organisation/organisations that provides technical advice, and a small staff of programme officers and office assistants.

The Foundation can follow both or one of the following in accepting proposals:

1. By issuing a call for proposals to undertake certain projects, with a given time frame and terms of reference. It then short lists the organisations it is interested in and asks them to submit a detailed proposal, which is then reviewed.
2. It allows unsolicited proposals or requests for project within its programme of activities. Applications can be received throughout the year, but the Council will review them and projects will be prioritised twice in a year.

Criteria for Foundation Activities

The core programme of the Foundation will consist of the following areas:

1. Environmental improvement
2. Community development
3. Responsible management practices

The programme will be focussed on the mining regions in Goa and should satisfy the following criteria:

- The activities to be supported will not include those that mining companies are obliged to undertake in fulfilment of regulatory requirements
- The interventions proposed need to be studied for their effectiveness and sustainability
- The programme may include activities that support governmental and/or private and voluntary initiatives in the mining region that relate to the improvement of the quality of life in the region

- Activities should support both preventive and curative approaches to environmental management.
- The programme has an interest in promoting consensus among various stakeholders and in bringing different constituencies together
- The programme will support initiatives to develop a responsible informed set of citizens
- The programmes will support initiatives to help improve the conditions of women, old people and the youth in the region
- The programme will support community and grassroots initiatives

The report details some of the priorities that need to be addressed under each programme area.

Evaluation

The Foundation will have a regular process of evaluation. Four types of evaluations are necessary:

- The review and evaluation of proposals that are received for funding. A review process is suggested in the report
- Audits- financial and social - of projects during implementation and at the end to ensure effective management and attention to possible unintended adverse social impacts.
- Regular evaluation of the programme of the Foundation to ensure that its priorities are appropriate.
- Regular evaluation of the operation of the programme to ensure its efficiency and effectiveness.

Funding Mechanisms

The report suggests mechanisms for funding of the Foundation and its activities. The Foundation should have a corpus fund and an annual contribution from the members. A **corpus fund** can have 2 components: (I) Flat fee per lease on all mine leases of Foundation members and (ii) a contribution on the basis of output/tonnage using a slab scale. Other bodies that are involved in minerals development can also make contributions to the corpus fund. In addition to the corpus fund, members should contribute annually on the basis of tonnages produced. The structure can be flexible: either a higher corpus with a lower annual contribution or a lower corpus with a higher annual contribution. If at any point the Foundation finds that it is unable to utilise its funds, the annual contributions can be reduced. Conversely, the annual contributions can be

raised if necessary. The Foundation needs to plan to attract some donations from other sources and leverage funds from government, civil society and bi-lateral organisations, international agencies through partnering with them on the basis of 'additionality".

The actual quantum of funding for the Foundation and the member contributions will be determined at a later date by the members.

Fund allocation

Since the prime objective of this Foundation is to remediate some of the environmental damages and to foster community development, the bulk of the funds should be used for implementation projects. The allocation suggested is as follows:

1. Implementation projects: 85% O f this 60% should go for environmental improvements; 30 % to community development projects and 10% to support responsible management practices
2. Research projects: 5%
3. Operational costs: 10%

The Minerals Foundation is a significant development in the mining history of Goa. It can be an important vehicle for the enhancement of environment remediation as well as social investment programmes in the mining region.

1 Introduction, objectives, methodology

ntroduction

The Goa Mineral Ore Exporters' association has asked TERI to design a framework for a Mining Foundation. The main idea of this Foundation is to make available funds from mining activity for the support of remedial measures and environmental improvement in the mining region as also to support community development programmes. Corporations, world wide, are increasingly finding foundations as the preferred vehicles for delivering environmental and social investment programmes. Literature suggests that pertinent drivers for this trend include[1]:

- Need for a formal statement that the corporation is committed to a programme of social responsibility.
- Need for transparent legal frameworks that administer funds for specific development purposes. This is very much connected with the experience of companies where it is found that money that is collected from the industry for environmental and social investment programmes by the government are not always used for the purpose but go towards general budgetary or other supports.
- Need to secure a 'license to operate' from local communities as well as government. Corporations find that it is in their long-term interest to establish good relations with local communities. Establishing programmes that will do this and through this increased good will facilitate company operations is one reason why such foundations are set up.
- Development of reputational management and an institutionalised approach provide more opportunity for careful decision-making and insulation from arm twisting and emotional appeals.

[1] Warhurst 2000, Freeman, Handbook on Private Foundations.

- The cost effectiveness of money collected through voluntary action is higher than that through taxation as collection charges tend to be higher and chances of default are greater than through voluntary contributions [2].
- In mining, more specifically, the driver has been the societal pressure for improved environmental and social performance.

Objective

The objective of this study is to suggest and design a framework/ model of a Foundation to support environmental and social programmes in the Mining belt of Goa.

Terms of reference

The specific terms of reference of the study are:

1. Do a survey/ study of Foundations/trusts in existence upon which the Environmental Foundation (EF) here can be modelled.

2. Suggest a Mission statement and Strategic Plan for the proposed foundation.

3. Make recommendations about mechanisms through which the grants of the foundation can be made.

4. Suggest guidelines for submission of proposals for environmental projects and activities and evolve the criteria for approval.

5. Suggest a design for the legal and organisational structure of the Foundation with attention to the following key aspects:
   - Where can the assets used in the EF and grants come from?
   - What can be the role of the Governing Board?
   - Who can/should serve on the Governing Board?

[2] For example in Goa, for every rupee collected in land revenue, 60 p goes towards collection charges. This does reduce the money available for the purposes for which the revenue is collected.

Methodology

The study involved:

1. A survey of the profiles of existing Foundations, mining and others in order to determine what would be most suitable to the situation in Goa and to the proposed objectives.
2. Interaction with mining companies and government officials to ascertain their views on the subject of the Foundation.
3. Desk research for addressing the other aspects in the terms of reference.
4. Consultations with legal experts on a structure for the same.
5. Interactive meetings with GMOEA: (I) to arrive at a core set of pre-sorted issues that were determined from literature/internet survey; (ii) feedback on the draft report.

Data Sources

Primary data were collected through interviews. The managing directors of the mining companies and local government officials were interviewed to have their viewpoint on the Foundation. Officials of trusts and foundations in other parts of India were also interviewed so as to draw on more information on the nature of trusts and foundations functioning in India.

Secondary data were largely drawn from the internet, and other published sources.

Report structure

The report has eight sections. Section 2 brings out the various issues that have emerged from the literature and internet search. Section 3 deals with possible legal and governance frameworks of a Foundation. Section 4 provides a mission statement, the objectives and approach as has emerged from interviews with members of the GMOEA. Section 5 offers suggestions for programmes that can be undertaken. Section 6 provides a process that be applied for reviewing projects. Section 7 offers suggestions for funding of the Foundation. Section 8 is the concluding section.

2 Foundations: types and issues

A foundation is a non-governmental, non-profit organization with its own funds. This can be from a single source, either from an individual, family or corporation. The programme is managed by own trustees and directors and is established to serve the common welfare[3]. The distinguishing characteristics of a foundations are that[4]:

- The purpose must be recognised as charitable or for public benefit.
- It must posses substantial capital assets. It excludes bodies, which serve charitable ends by raising money from year to year and spending it as they raise it.
- It must have discretion in the allocation of its money. This excludes, as is intended, trusts and funds exclusively for the benefit of particular causes such as named hospitals, schools or colleges.
- Conversely, it must not be an organ (subordinate or exclusively linked) of some other institution.

Types of Foundation

Foundations are classified on the basis of the funding body and governance structure. Some of the major types of Foundations are as follows:

Community Foundations

Community Foundations raise their funds from several donors who are residents in a geographic area and focus on local needs. The donors who wish to carry out certain philanthropic work and are unable to do due to administrative and legal costs can do so through community foundations. Thus it reflects the community or people who are willing to invest and the organization, which

[3] Freeman, Handbook on Private Foundations

[4] Characteristics of a foundation: - H.V. Hodson in the International Foundation Directory- Europa publications 1974- cross reference used by R.M. Lala in the preface of "The heartbeat of a trust: the story of the Sir Dorabji Tata Trust. (pp. 15)

serves as the foundation to connect their interests. It is possible to express donor intent through Community Foundation. In the US, there are over 500 community foundations, of which Cleveland Foundation is the oldest and the New York Trust is the largest. In India, we have the Bombay Community Public Trust, the details of which are given in Box 2.1 below.

Box 2.1 Bombay Community Public Trust (BCPT)

This is a city based trust and its geographical boundary is the municipal area of Mumbai. Its objective is to improve the quality of life of the people living here. This trust receives funds from corporations in Mumbai and from international organizations. Some donors who give the funds request that the funds be used for a particular purpose.

The trust sends out letters of appeal seeking support for the trust. Earlier the trust depended on corporate funding, however today it aims at reaching out to individuals who would contribute to the trust.

Area of work is

Women and children – Health - Environment

BCPT makes grants to NGO's to implement the programme's. A call for proposal is made. Proposals should be accompanied by: A detailed project proposal, a detailed budget; Copy of the trust deed; Background information of the NGO; 80G clearance, Income tax certificate, Charity commissioners certificate, Last three years audited accounts; Annual report and alienation from political parties and activities.

Prior to the sanctioning of the project visit to the site may be made and the functioning of the NGO is evaluated. This is then presented to the board of trustees, who meet twice a year.

At times the approval for a project may be got through a circular where there is no need to wait till the board meets. This enables to avoid delay in sanctioning of projects. A yearly report form the NGO's is asked for along with statement of accounts. Money is always disbursed in instalments which may be half yearly.

The Trust has a Chairman, a Board of trustees i.e. 12 including the Chairman. On the board there are 1-2 representatives of the companies who are the principal donors. The board decides on the major policy decisions. The day-to-day functioning of the trust is done by the Executive trustee. Under the executive trustee come the project executive and the account executive and other supporting staff.

The tenure of the project and the funding depends on the time frame required and the nature of the project. The BCPT identifies the NGO's and monitors the work taking into account the preferences of the Corporate.

Source: Interviews

Box 2.2 Sir Dorabji Tata Trust

Formation of the trust

This trust was set up last century in 1932 during the lifetime of Sir Dorabji Tata.

Personal assets in terms of land, building and jewellery, shares etc valued around 1 crore was used to set up the Sir Dorabji Tata trust. The trust survives with the initial corpus amount and continuously gets a share profits reaped from the various Tata companies. This trust established the TISS,TIFR, Tata Memorial Hospital. These institutes today are independent of the trust. The present chairman of the trust is Mr. Ratan N. Tata. From 1968-1993 i.e. till his death Mr. JRD Tata was the chairman till his death and prior to it he was on the board of trustees.

Type and activities

The trust is a grant making trust. It makes grant to individuals and institutions.

To individuals It is made for medical, educational and travel (e.g. Travel to foreign country to present papers especially in the field of medicine) The ceiling on the disbursement of funds for individuals is less so that it would benefit a larger number of people.

To institutions Grants are made to NGO's in the field of development this covers health, education, management of natural resources, livelihood and social aspects.

The merits of the students/individuals and NGO's are graded and at the best are chosen.

Criteria and mode of selection of proposal

- Clarity of the proposal is an important criteria and it should be well defined.
- The proposal should have a welfare approach.
- It should be long term with community involvement.
- And the budget should be detailed and should match up the expenses
- Some of the prerequisites that are needed along with the proposal are
- Audited accounts of the NGO; Xerox of registration certificate and Income tax exemptions
- The grant period is of 2-3 years usually.

Board of Trustees

Chairman – Ratan N. Tata; Vice chairman; Managing trustees- 7; Members -6

Meetings are held twice a year and in these meetings statement of accounts and recommendations for grants are made. The day-to-day functioning of the trust is done by the director(Mr. R.M. Lala).

Mode of funding

Funding may be on the basis of matching funds where the proportions differ, or it may be a partnership in funding where the trust plays more roles besides its mere funding role. Here it is a qualitative partnership where the donor advises the NGO's on how to improvise its functioning. Sometimes a corpus grant may be made to NGO's. An important criterion is that the organization has a good second line of staff, and an excellent track record.

Source: Interviews and Lala R. M.1998,**The Heartbeat of a Trust**, The Story of the Sir Dorabji Tata Trust New Delhi, Tata McGraw-Hill Publishing Company Limited

Operating foundations

These foundations are established or funded by a single source consisting of family or individual and is operated by a board of directors or trustees to implement the objective of the foundations. Most of the income of the foundation is used to fund own charitable services or run charitable programmes rather than make grants to others. The J Paul Getty Trust is an example of this type of foundation. The Ashland Foundation is another. (Box 2.3)

Box 2.3 Ashland Inc. Foundation

Aim: To support, engage and address social and educational and community –related issues to improve the environment. In addition to this, it also considers supporting arts and culture, and measures to stabilize or improve cities or neighbourhoods and enhance our environment.

Geographic boundary- Its environment is its target area, which is limited to certain geographic areas, programme categories, and programs that best address the needs of Ashland employees, stockholders, customers, and other constituencies and the communities in which they live.

Funding other non-profit and charitable organizations and employees matching grants programme.

Source: http://www.ashland.com/community/foundation/

Corporate foundations

Foundations , which receive contributions from profit making business, have a close tie with the donor company/companies but where the foundation is a separate legal organization can be termed as corporate foundations. It is designed to benefit the community in which the corporation is located but it can also have broader purposes. Novartis Foundation for Sustainable Development is an example of such type of a foundation. (See Box 2.4) A number of mining companies have set up such foundations. The World Business Council for Sustainable Development has also set up a foundation to promote the understanding of sustainable development. Few corporate foundations have large endowments. Most receive and distribute funds each year from current

profits of parent companies and have endowments equivalent to one or two years of annual contributions.

Box 2.4 Novartis Foundation for Sustainable Development (NFSD)

The NFSD is funded by the Novartis group, however this is an autonomous foundation. The only area of control of the group on the foundation is with regard to accountability of the use of funds donated by the group. The foundation independently selects its development projects; the project managements are on the basis of development-related criteria.

Aim: To collaborate with other social agents to secure basic needs and improve economic conditions, health, and food security amongst the world's poorest people. The foundation sees its work as an investment in sustainable development. The main areas of interest are rural development and agriculture, health care and social development.

Boundary- Instead of geographic boundary, the areas of interest and the development criteria determine its boundary. This Foundation collaborates with other social agents and emphasizes on the participation of target groups in the selection, planning, execution and subsequent monitoring of all measures. This not only enables in having a feel of the local conditions, but also will go on to instil self help in the local community where the initial investment made by the foundation will go on to be carried out the local people themselves.

Source:http://www.foundation.novartis.com/organisation.htm

Types of corporate foundations

The types of corporate foundations that are in existence have been classified into four[5]:

Donor foundations
Partnering foundations
Community foundations
Implementing foundations

Donor foundations

Such Foundations manage assets and do not implement projects. They allocate financial resources to specific programmes and appoint implementing agencies to carry out programmes. Good examples of such foundations are the

[5] (Stewart-carter, 2000). This sections draws considerably from this source

The Ford Foundation, the Rockefeller Foundations, the Foundation for Business and Sustainable Development, Shell Oil Company Foundation. In India a good example is the Sir Dorabji Tata Trust discussed earlier. We provide a short summary of the Shell Foundation below. (Box 2.5)

Box 2.5: The Shell Oil Company Foundation

The Shell Oil Company Foundation focuses on making a difference in the communities where Shell people work and live. Last year, over $23 was allocated across the country to selected qualified organisations that provide broad based support in areas such as equal opportunity, health and human services, civic involvement, the arts and education.

Health and Human Services: Shell provides non-profit hospitals where Shell has a large number of employees, with capital contributions and the specific program support.

Educational Funding: A large share of these funds are to University Departmental programs including Doctoral Fellowships, Faculty Career Initiation Funds etc.

Culture and Arts: A wide range of established symphony, opera, theatre groups, visual arts, libraries etc are supported by the Foundation.

Civic Contributions: The Foundation's civic contributions are directed toward local and national organisations working in areas such as community improvement, justice and law and research and conservation

Source: http://www.countonshell.com/community/community_found.html

A smaller foundation but very much akin to what is being suggested here is the Australian Minerals & Energy Environment Foundation (AMEEF). See Box 2.6 for details.

Box 2.6 The Australian Minerals & Energy Environment Foundation (AMEEF)

The Australian Minerals & Energy Environment Foundation (AMEEF) is an independent non-political, non-profit body established in 1991 to promote the implementation of the principles of sustainable development in Australia's mineral, energy and related industries.

The mission of the Australian Minerals & Energy Environment Foundation is to encourage and support continual improvement and excellence in environmental management in Australia's minerals, energy and related industries and to communicate the environmental achievements of these industries to the community.

The objects for which AMEEF is established, in relation to the Australian minerals, energy and related industries are to:

- Encourage continual improvement in environmental management;
- Promote research, education, training and the exchange of information on environmental management, science and technology issues;
- Recognise environmental excellence, both at an individual and corporate level and communicate environmental achievements to the wider community; and
- Facilitate constructive discussion between industry, government and the community on environmental issues.

AMEEF consists of a Board of Directors, supported by a small Executive. The directors are drawn from a wide range of backgrounds and bring considerable experience in industry, government, academia, research and community work to AMEEF. In their role the board of AMEEF, the Directors are independent of any company, industry association government agency or community group.

AMEEF is funded by grants from a number of industry associations, companies and government agencies. The current contributors to AMEEF and its activities are:

- NORMANDY MINING LIMITED
- PRIMARY INDUSTRIES AND RESOURCES SA
- MIN HOLDINGS LIMITED
- MINERALS COUNCIL OF AUSTRALIA
- ERNST & YOUNG
- ENVIRONMENT AUSTRALIA
- RIO TINTO
- BHP
- ANSTO
- ILUKA
- SANTOS
- ALCOA
- CSIRO
- NORTH

Source. http://www.ameef.com.au/aboutam.htm

nering foundations

Foundations also tend to partner with other NGOs and government agencies to deliver their programmes. They play a catalytic role and do exercise greater management control over projects, and even implement small interventions with local communities. Good examples of these in the mining world are: The Yanacocha Association, Peru, BHP's Minera Escondida Foundation, Chile (Box

2.7). In Yanacocha mine, Peru, the partners are: Aid Four; ITDG; Care International; the Peruvian Department of Health; Community Association leaders; and the Company foundation, the Yanacocha Association. In India the K.C. Mahindra Trust partners in some programme.

Box 2.7 The Minera Escondida foundation

The Minera Escondida Foundation is an independent non- profit institution that was started in October 1996. It was created and funded by the Minera Escondida (BHP) in order to devise social programs aimed at benefiting communities primarily in Northern Chile. The Foundation's objective is to support initiatives, notably health and education related that are able to provide the participating social groups with skills and know-how enabling them to improve their standard of living.

The foundation has invested US$ 183834 in its first year in eight projects that have already been completed and has committed a further US$ 1480429 to thirteen projects that are currently under development. The Foundation's projects, in both educational and health-related areas are focussed on meeting long-term needs taking into consideration concerns and expectations of the community itself, which is represented by five of the eleven board members.

Source: http://www.bhp.com.au/cac/minera.htm

Community foundations

These community foundations are different in scope from those discussed earlier. Here, funds from compensation agreements for land access and company donations are placed in individual community foundations that aim to benefit local communities. Communities are encouraged to decide the implementation, management and maintenance of their own development programmes. The Community relations team of the parent company assists the community in needs assessment and project management through training and education. The project proposals are generated by the community and reviewed by the Board, and the company provides technical guidance regarding, for example, banking or drinking water systems. See for e.g. Community foundation in the **Tampakan Copper Project**, Philippines (WMCP) Box 2.8

Box 2.8 Tampakan Copper Project

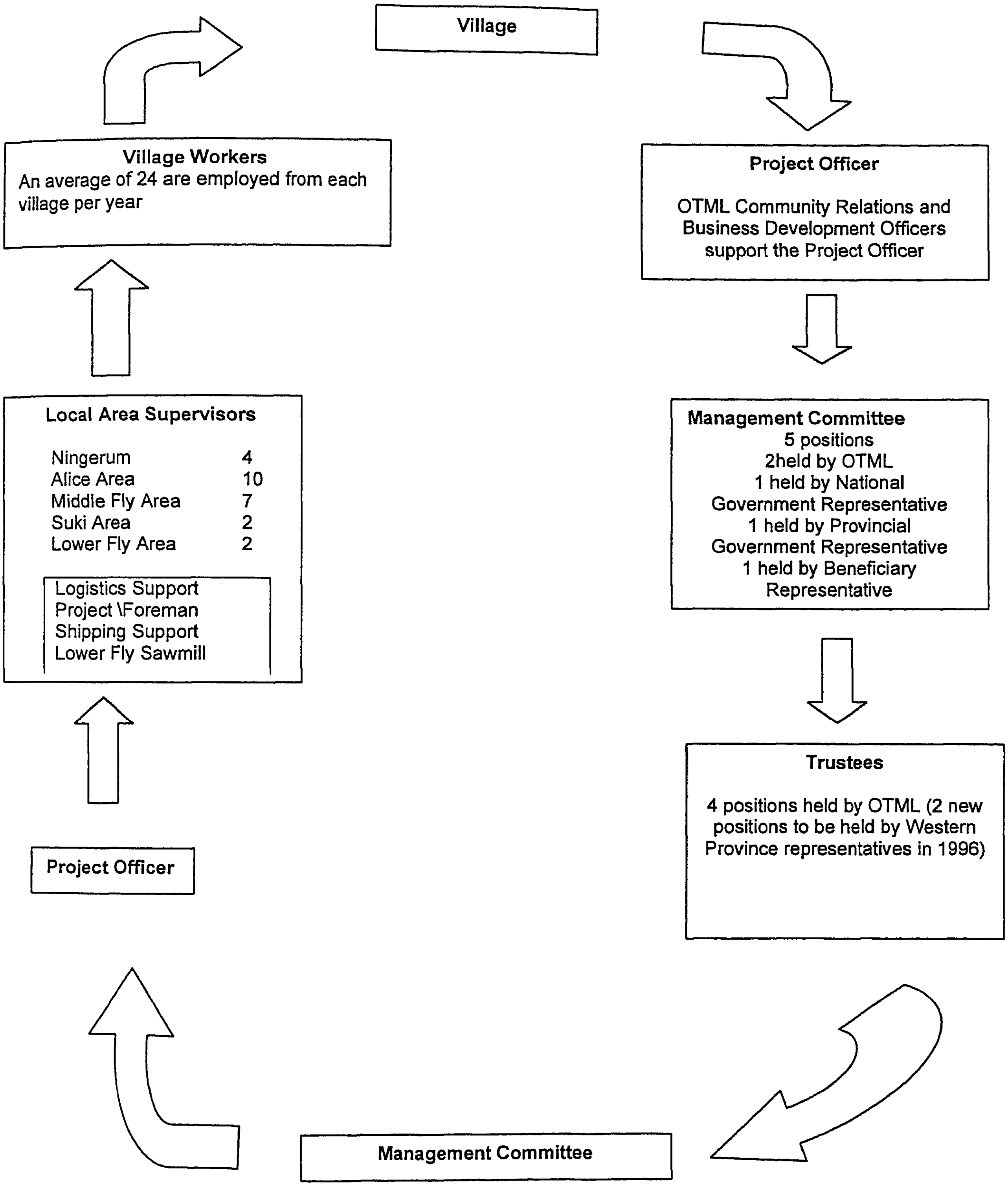
Under the Financial or Technical Assistance Agreement signed for the Tampakan Copper Project in the Philippines, WMC is legally required to 'contribute to national development by helping the host and neighbouring communities of the Contract Area and to recognise the rights, customs and traditions of indigenous tribal people. In advance of the signing of the principal agreements and in consultation with communities, WMC has provided funding for community development priorities such as schools, clinics and advice on making the transition from shifting slash and burn agriculture. The latter responds to the difficulties of limited access to remaining land resources. It is also assisting reforestation of previously logged areas. On average, 15 percent of WMC's annual budget has been spent directly on community development (A$6.3 million/US$ 4 million in total).

Source: Davy, A, 1999, Learning To Respect Indigenous Land Rights, draft, quoted in Warhurst, 2000

plementing foundations

Foundations that have in-house staff for the implementation of their programmes. These foundations have a larger number of staff and, although they do forge partnerships with other outside institutions, have developed the competence and skill base to carry out and evaluate their own programmes. E.g. The San Isidro Foundation in Colombia, the Rossing Foundation in Namibia, and the Inti Raymi Foundation in Bolivia, Ok TEDI trust. See Figure 2.1 below for the organization of the work of the Lower Ok Tedi/Fly River Development Trust. (Source: OK TEDI Development Trust Annual reports)

Figure 2.1 Organisation of a foundation



Source: Lower Ok Tedi/Fly River Development Trust, Annual Report 1994, Papua New Guinea, pp.19

The Birla Trust in Mumbai is implementing work in some areas concerning education and women. (See Box 2.9 for details)

Box 2.9 G.D. Birla Medical Trust

The Birla trust is not only a grant making but also an implementing trust and has certain schemes through which it does this . This trust provides medical aid to needy patients and scholarships. Social workers in hospital recommend needy patients. In a financial year the trust clears 1200 cases. A ceiling of Rs. 5000/- is given for each person. This enables in increasing the target group.

This trust has also opened up an orphanage for around 250 inmates. Boys, over 18 years of age, remanded from juvenile courts are looked after here. These children are given free boarding, lodging and clothes for 2 years. In this time span they are given education and also undergo training. Vocational technical courses, use of xerox machine etc. After the specified time span of 2 years these children are provided with placements and many a times in the various companies of Birla.

Besides this the trust has opened up a working women's hostel in Chembur. This has 155 inmates. Hygiene is emphasized and hence Birla has employed full time workers for the hostel as well as for the orphanage. There are facilities for entertainment and also a solar water heating facility. Rural development is also another activity that has been undertaken. Activities are also undertaken to help the teaching of Braille to the blind.

These programmes are entirely funded by the Birla group of companies. The day-to-day working of these institutions is looked after by Birla. Some of these initiatives have been taken on account government schemes and policy. For instance the Central government provided the Trust with aid in terms of providing land in setting up a workingwomen hostels and orphanage in Mumbai.

Birla employees cannot avail the facilities of the trust.

Source. Interviews

Main lessons regarding type & effectiveness

The main lessons that emerge from a survey of the Foundations in existence are that:

- There is no 'best model' for foundations
- The timing of establishing a foundation has been found to vary between sites and is related to the initial goals of the organisation. Increasingly, corporate foundations are being seen as fundamental to building trust and reducing local risk. They are, therefore, a pivotal strategic tool for ensuring future revenues flow from the mineral or hydrocarbon deposit. (Stewart, 2000)
- The design of foundations should reflect objectives and the purpose for which it s being set up, and the local capacity to implement programmes.
- Those Foundations are effective where the specific **objectives** of a foundation are the **basis for its governance**. Corporate foundations are most effective when they have a bounded set of specific objectives targeting a clearly defined group of stakeholders or beneficiaries.
- The financial security of a corporate foundation is best safeguarded when **core funding is made available as a secured capital endowment.** This is to protect the Foundation from being affected by the downswings of the parent company or companies. Having core funding also provides the Foundation with a status that the donors have a commitment to it and hence makes it more attractive for donations from elsewhere. A sure source of income provided by the earnings from the corpus also enable the management to plan ahead.
- Foundations are often set up in the hope that it will make a positive community relations statement. However it is important that a distinction be made between **community relations** and **community development.** (Stewart-Carter, 2000) The function of corporate foundations is to deliver the latter and involvement in the former could undermine their effectiveness. Information dissemination, however, plays an important part in both. The greater the transparency and the information available relating to the activities of the Foundation, greater will be the chances of improved relations with local communities.
- Corporate foundations are especially effective in situations where there is an **absence or lack of capacity within local institutions**, or where the political situation is unstable. Where there is no NGO or institutional presence, establishing an 'implementing foundation' would seem

appropriate. We thus observe a number of such developments in Papua New Guinea, Namibia, Peru, etc.

Governance structure

All foundations have a board of directors /governing council or trustees. The board can be drawn from a variety of stakeholders including local communities, funding agencies and government, as well as company employees. The literature reveals various types of governance structures depending on the degree of control desired by donors. Some corporate foundations start with a strong representation from the donors, but as the Foundation establishes itself, these are replaced by members of civil society. The literature suggests that the governance structure chosen makes an important statement about the direction that the Foundation wishes to take and hence it is important that the decision about the composition of the Board as also the people chosen be done with deliberation. Below we provide, with examples from corporate foundations around the world, governance structures where differing degrees of control have been exercised. The degree of control is evident from the number of representatives on the Board that are from the Donor Company or companies.

OPTION I:

Strict relation with donor company. Trustees are appointed by the Board of Directors of the Donor Company and the Chairman of the Trustees is also appointed by the Board of Directors. All employees of the donor company

The **Management Committee** has a mix from the Board of Directors of donor, the regional government, the local government council and the national government. Appointee of the donor company is Chairman of the Management Committee

E.g. of such governance structures are the Lower OK Tedi/Fly River Development Trust, the Birla trust and the Mahindra trust.

OPTION II :

A less strict relation is observed when the company representatives have a smaller representation on the Board and there is a greater representation from

the government representatives and from civil society. An Executive Director is responsible to the board
E.g. are the **Rio Tinto Rossing Foundation, Namibia, the Sir. Dorabji Tata Trust**

OPTION III:

Where the Board of Directors is made up of a Foundation Director, a local person of high standing, small company representation, and a representative from the local government office
E.g. San Isidro Foundation, Peru

Option IV:

Least control from donor company is observed in the Ashland Inc. Foundation. Here the Board of Directors has 12 members, of which there is a company representative and the rest are all from outside company
The Executive Committee has 5 standing committees (all outside directors)
E.g. Ashland Inc. Foundation, USA

OPTION V:

Another type of structure is that found in the Foundation for Business and Sustainable Development supported by the WBCSD. Here the Board has: 3-9 members inclusive of a Chairman. The donor has one seat for its executive director and nominates the Chairman. An International **Advisory Council** exists with Directors/presidents of other international foundations/organisation. The **Management** consists of a President, a managing director, a Project manager and an Accounts manager

Financing mechanisms of corporate foundations

What are the kinds of financing mechanisms used by corporate foundations? In general, foundations opt for a corpus in order to have an assured sum of money available for the activities of the foundation. The corpus can be large or small. Few corporate foundations, however, have large endowments. Most receive and distribute funds each year from current profits of parent companies and have endowments equivalent to two or three years of annual contributions[6]. The common arrangements observed are: the linking of annual budget to a

[6] Freeman, Handbook on Private Foundations

percentage of output; drawing on a corpus fund over a number of years; and spending the interest from an endowment, but retaining the capital; leveraging funds from government, civil society and bi-lateral organisations, international agencies through partnering with them on the basis of 'additionality. E.g., The Rossing Foundation in Namibia, originally established by Rio Tinto plc., has managed development funds from USAID, UNDP, the European Community, DFID, SIDA, and the Australian and New Zealand governments.

Some corporate foundations have considered the possibility of collaborating with other neighbouring, businesses, especially in areas where there is a cluster of industry activity and individual companies can see the opportunity for common benefits. The main patterns observed in the arrangement between corporate foundations and their parent company in mining projects are: (Stewart, 2000, p 5)

- annual negotiations for a fixed yearly sum
- annual negotiations with group head office
- a set percentage of annual profit levels (2-3%)
- a legally agreed sum made available to each community foundation from the parent company over a fixed period (usually short term)
- A combination of an annual budget, project specific funds from outside agencies, and revenues generated from the activities of the foundation.

Funds for community development: some examples from mining

In the mining world we have examples form the Western Mining Corporation (WMC) on community development, where in 1999, 15% of annual budget (US$4 million) was committed to community development. In India, INDALCO, commits 1.5% of profits and Rio Tinto-Rossing contributes 3% of earnings after taxes

Key factors that need to be considered when establishing a foundation

When a Foundation is being established, the proposers need to decide on a number of key issues:

- **Life of the Foundation**: Is the Foundation to have a limited life? If limited, there is a need to identify the mechanisms used, or proposed, for transferring corporate foundation's projects to external institutions at end of the lifetime.

- **Building trust** with communities can be facilitated by a continuity of personnel and consistency of policy
- A foundation needs to be seen to be **independent**.
- The **size of annual budget or endowment** agreed upon needs to be considered in designing the foundation structure & operational costs.
- The need for **appropriate expertise** being created within or accessible to the foundation.
- Need to distinguish between **community relations** and **community development**. Foundations are about the latter, not former. Companies associated with the foundation should not see it as being responsible for all community affairs[7].

[7] Stewart-Carter, 2000, p 9

3 Legal and organizational frameworks

Appropriate legal frameworks suitable to the objectives of a Foundation are:

- A Trust
- A society
- A non-profit company registered under Section 25 of Companies Act.

Legal Frameworks

Trust

A Trust can be set up for any lawful purpose. Although there is no law governing the setting up of a foundation as a Public Charitable Trust (except in Maharashtra and Gujarat where a public charitable trust is set up under the Bombay Trusts Act, there is no bar against setting up a public trust which will be entitled to income tax benefits. The general law of trusts and the principles embodied in the Indian Trusts Act will be applicable. The Indian Trustees Act will govern the functioning of the trustees. In Maharashtra and Mumbai a public trust is registered in the office of the Charity Commissioner. In Delhi, Chennai, Calcutta it is registered in the Lower Registry, in Goa at the sub registrar's office.

The advantages of a trust from the viewpoint of the objectives of the Foundation are that:

- It s easy to set up
- It can be wound up only by the settlor or in terms of the trust deed
- It is difficult to change the original intent of the trust deed
- Its affairs are not up to public scrutiny
- It faces little interference from the government.

However in this case, since many companies are coming together to form the foundation there will be no single person or entity who can be the settlor.

A society

A society is governed by the Societies Registration Act 1860. A society can be set up by seven persons or more for interalia: the grant of charitable assistance or

for instruction and diffusion of useful information. The society can be registered with the Registrar of Societies in Panaji.

The advantages of a society are:

- That it provides a Corporate Appearance to the Foundation
- That it involves Flexibility in terms of:
  1. Objects that can be modified to meet changing needs following procedure set down in the Act.
  2. Rules of Association can also be amended easily
  3. Society can be amalgamated either totally or partially with any other Society following the procedure set down in the Act.
  4. Limited Liability of the members
  5. Society can be wound up easily
  6. All members have equal standing

A non profit company

A non-profit company is governed by The Companies Act 1956. Under section 25 of the Companies Act 1956 the Central Government is empowered to grant licenses to associations/companies established for promoting commerce, art, science, religion, charity, or any other useful purpose and which intends to apply their profits if any or other income on promotion of their objectives and prohibit the payment of dividend to their members. The associations, which are granted such licenses, are allowed to be registered as companies with limited liability without the addition to their name the words Limited or Private Limited. They are also eligible to exemption to some of the provisions of The Companies Act. A body in respect of which a license under section 25 shall not alter the provisions of its memorandum with respect to its objectives except with the previous approval of the Central Government signified in writing. The Central Government may revoke the license of such a body if the alteration is made without its approval.

Applications are to be made to the Registrar of Companies and approval will be granted by the Regional Director concerned.

The advantages of a Company are that

- It has a Corporate Status
- Company Law applies in matters of mismanagement
- More accountability and therefore seen as more transparent in operations

- Objects cannot be changed easily
- On winding up property shared by members according to their rights and interests in the company after payment of liabilities

The chart (4.1) below provides salient features of each

Chart 4.1 Salient features of a trust, society and a non profit company

	Trust	Society	Section 25 company
Statute/ Legislation	Indian Trusts Act, .1882	Societies Registration Act, 1860.	Indian Companies Act, 1956.
Jurisdiction	Charity commissioner.	Registrar of societies (charity commissioner in certain states like Maharashtra).	Registrar of companies.
Registration	As trust.	In states like Maharashtra, both as a society and as a trust.	As a company u/s 25 of the Indian Companies Act and totally outside the purview of the charity commissioner's department.
Main Document	Trust deed.	Memorandum of association and rules and regulations.	Memorandum and articles of association.
Stamp Duty	Trust deed to be executed on non-judicial stamp paper, the value of which should be 4% of the value of the trust property.	No stamp paper required for memorandum of association and rules and regulations	No stamp paper required for memorandum and articles of association.
Number of Individuals Required To Form The Organisation	Minimum – two trustees. No upper limit	Minimum – seven. No upper limit.	Minimum – seven. No upper limit
Board Of Management	Trustees.	Governing body or council/managing or executive committee.	Board of directors/ managing committee.
Mode Of Succession On Board Of Management	Usually by appointment.	Usually election by members of the general body.	Usually election by members of the general body.

Source. Dadrawala N. H. (1996) Management of philanthropic organizations Centre for advancement of Philanthropy, Bombay pp: 187

Chart 4.2 below provides a comparison of the differences in procedural detail differences.

Chart 4.2 A comparative procedural detail

FEATURE	TRUST	SOCIETY	NON PROFIT COMPANY
FORMATION	Procedure is simple and easy	Procedure is simple and easy	Procedure slightly more complicated and time consuming.
MANAGE-MENT	As per the trust deed	As per the rules of association. Therefore simpler and more flexible.	Provisions of Company law apply
MEETINGS	As per the trust deed or whenever necessary.	Annual meetings of society has to be held as per the provisions of the Act. Meeting of Governing Body are held as prescribed in the rules of the Society	All meetings held as per provisions of Companies Act
MODIFICAT-ION OF OBJECTS	Objects can be modified only by the original settlor or as per the terms of the trust deed if such a provision is provided for.	Objects can be modified to meet changing needs following the procedure set down in the Act	Objects can be modified only after getting prior permission of the Central Government
DISSOLUTION/ WINDING UP	A trust can be dissolved only by the original settlor or when the reason of its existence comes to an end or as per the trust deed if such a provision is provided for in the trust deed	A society dissolved by consent of 3/5 members. Profits and property of the society are not to be distributed among the members but to be given to some other Society to be determined by 3/5 of the members voting at the time of dissolution or in default by the court	Winding up as per Companies Act - voluntary, by the court or under supervision of the court. Profits and property if any after payment of liabilities to be distributed among members according to their rights and interests in the company.
STANDING	All trustees have equal standing	All members have equal standing.	Standing as per their rights and interests in the company.
LIABILITY OF TRUSTEES / GOVERNING COUNCIL/BOARD OF DIRECTORS	Trustees liable for beach of trust and can also be liable for co trustees breach of rust in certain cases.	Limited Liability.	Limited Liability but subject to provisions of the Companies Act and piercing of corporate veil.
LITIGATION	Mainly in civil courts	Mainly in civil courts	Both before civil court and before Company Law Board.
EXPENSES IN ADMINISTRATION	Least expensive	Slightly more expensive	Very expensive
PENALITIES AND OFFENCES			Many offenses provided for non compliance with Companies Act

Winding up

Trust

Trust can be wound up either by a settlor or as per terms of trust deed. Trust Deed will contain a provision as to how trust funds will be dispersed when the trust winds up.

Society

Society to be wound up in accordance with procedure set down in Societies Registration Act. Consent of 3/5 members necessary. When society is dissolved the profits and property of the society are not to be distributed among members but to be given to some other society to be determined by 3/5 of members voting at the time of dissolution or on default by the court.

Company

Company to be wound up as per Companies Act either voluntary, by the court or under supervision of the court. Profits and property if any after payment of liabilities to be distributed among members according to rights and interests.

Tax planning

For the foundation

It is extremely important for the Foundation to have a sound investment strategy. The onus to ensure that funds are invested wisely is on the Board of Trustees/ Governing Council/ Board of Directors. However some trust deeds / memorandum or articles of association may contain the manner in which funds are to be invested. To avail of income tax exemption the Foundation has to be for a Public Charitable Purpose and registered under Section 12A of the Income Tax Act. The Foundation will not be entitled to income tax benefits if it is not registered under S12A of the Income Tax Act. A charitable purpose has been defined in S2 (15) of the Income Tax Act. It includes:

- Relief to the poor
- Education
- Medical Relief

Advancement of any other object of general public utility.

At least 75% of the income of the Foundation has to be used for a public charitable purpose. Voluntary donations to the corpus are exempt from tax and need not be applied for a charitable purpose. However membership fee or subscription is not treated as a voluntary donation to the corpus. Other incomes that are exempt from tax are:

- Profits and gains of an eligible business which is incidental to the attainment of the objects of the foundation
- Income being capital gains arising on transfer of capital asset, where sale consideration has been utilised in acquisition of another capital asset.
- Income paid to a scientific research association approved under section 35 of the Income Tax Act.

For the contributors

While formulating the objects of the Foundation, objects for which income tax benefits are available should be included as separate and distinct objectives. The following payments are permissible deductions from the total income of the assessee / contributor.

- Payment[8] made to a scientific research association, which has as its object the undertaking of scientific research. The payment has to be used for scientific research. The institution has to be approved for the time being by the prescribed authority. (Section 35)
- Payments made to an association or institution approved by the National Committee [9] for carrying out any eligible project or scheme for economic and social welfare. (Section35AC) Under Section 35AC contributions made to an association or institution approved by the National Committee for the promotion of Economic and Social welfare, Dept of welfare, Ministry of Finance, for carrying out any project or scheme for economic and social welfare, notified as eligible under Section 35 AC of income tax would entitle the donor to a 100% deduction of the amount of such contribution. These projects include: construction and maintenance of drinking water projects in rural and urban areas; construction of dwelling units for the economically weaker sections; construction of school buildings, primarily for children belonging to economically weaker sections, establishing and running of non-conventional and renewable sources of energy; construction and maintenance of bridges, public highways and other roads; and pollution control projects.
- Payment made to an association or institution, which has its object the undertaking of any programme of conservation of natural resources or afforestation. The payment has to be used for carrying out any programme

[1]Words "an amount equal to one and one fourth times of any sum paid " shall be substituted "for any sum paid " by the Finance act 1999 w.e.f 1.4.2000

[9]The prescribed authority under rule 11L is Secretary to National Committee for Promotion of Social and Economic Welfare Department of Revenue, Government of India. See rule11L for form of application to be submitted for approval of association /institution or for recommendation of project/scheme

of conservation of natural resources or afforestation. The institution has to be approved by the prescribed authority[10]. (Section 35 CCB)

It may take a while before the foundation establishes credibility and gets requisite permission from the concerned authorities but the objects of the foundation can include the above.

The following deductions can be made from the gross total income, provided the conditions laid down under each condition are fulfilled:

- Deduction for donation to specified institutions/ funds and other funds for charitable purposes approved for the purpose. (S80G)
- Deduction for scientific research association, to an approved university or institution. (S80GGA)

Other laws to be considered

Transfer of Property Act 1882

Indian Registration Act 1961

Foreign Contribution (Regulation) Act 1976: If the foundation wishes to receive foreign contributions from either a donor organisation or an individual in cash or kind, it will have to obtain prior permission from the Ministry of Home Affairs. The Foreign Contribution (Regulation) Act was enacted in March 1976. Section 6 of the Act consists of the ones who require no such permission but are bound to intimate to the Government the amount, source and manner of receipt of "foreign contribution" and "the purposes for which and the manner in which" it was utilised. This applies to organisations which are not of "a political nature" – but associations which have "a definite cultural, economic, educational, religious or social programme". The Central Government (Ministry of Home Affairs) has laid down a few guidelines for organisations seeking registration under the Foreign Contribution (Regulation) Act, 1976.

Registration may be refused under the Act to a new applicant under any one or more of the following circumstances: (*Philanthropy,* November December 1999 pp.6.)

- If the organisation has close links or ties with another organisation or unit or branch of another organisation, which has either been refused registration or been prohibited from accepting foreign contributions under any of the provisions of the Act.

[10] See Rule 6AAC. The prescribed authority is Secretary, department of Environment, Government of India.

- If the organisation is discovered propagating sedition or advocating violent methods to achieve its ends;
- If the organisation is involved in the creation of communal tension or disharmony;
- If the organisation is a "family" organisation with family members from the same family filling up two or more office bearers' posts, viz., president, vice-president, secretary, etc. An exception to this rule is made in the case of one family member occupying an office bearer's post and the other being only a member;
- If the principal office-bearers of the organisation, while discharging their official functions have been convicted by any court of law under any Act or if a prosecution for any offence is pending against them;
- If the principal office-bearer of the organisation have either diverted or misapplied funds for purposes other than those for which such funds were received
- If the activities of the organisation include conversion of people from one religion to another, either directly or indirectly, through inducement or force;
- If the organisation is in its formative stage and therefore, having made no substantial contribution to its field of interest; the Central Government had, in the past, laid down the rule that an organisation would qualify for FC(R)A registration only after two years of its registration as a trust or a society ; currently , this period has been extended to three years;
- If the organisation is found to be fictitious or "*benami*" in nature;
- If any of the principal office-bearers or if the chief functionary of the organisation is a foreign national - no name of any foreign national should be given in the list of members of the executive/ governing council;
- If the total expenditure, as shown in the receipt and payment accounts regarding the social and developmental activities, is less than Rs. 75,000/-

In the sections that follow, we suggest a framework for a Minerals Foundation for Goa drawing on this and other material.

4 The Minerals Foundation: mission statement, the approach, legal and governance issues

This section is written based on interviews with members of the GMOEA and officials of the Goa government[11].

Vision

The Minerals Foundation to be set up collectively by the Goan mining industry will, through its programmes of technical and financial support, enhance the environmental quality, promote social investment programmes, and assist future mining to be conducted in an environmentally responsible manner even as it contributes to economic growth, employment generation and development in the mining region of Goa

Mission statement

To address environmental and social issues concerning communities in the mining belt of Goa through the formulation and implementation of development programmes

Objectives

The general objective is to contribute, in a constructive manner, to the establishment of sustainable development in the mining belt

The more specific objectives are:

- to contribute to the economic and social development of the local community
- To channel the efforts already underway and to pool together activities to improve the environment
- to formalise current efforts and communicate these achievements to the public at large

[11] See Annexure 1 for list of people interviewed

Approach

- It will achieve this aim by formulating a well-founded and broader understanding of all problem areas, both theoretical and practical, in relation to mining activity
- It will promote and carry out investigation/ research and implementation in these areas It will contribute to a focused development in the mining belt by exchanging information and co-operating with similar initiatives whether national or international and by influencing public opinion at all levels.
- It will foster new initiatives aimed at accelerating improved environmental and social development practices in the mining belt, and, contribute to their further refinement.
- While quality of projects is important, this will not be at the expense of spreading the benefits of fund disbursement to a larger group of people.
- Monitoring of progress of projects will be an important component of project activities
- Accountability at all levels will be a cornerstone of the Foundation
- The Foundation will seek to be transparent in its activities and ensure that information relative to its activities are available to all
- The Foundation will be an implementing foundation and have its own in house staff to oversee the implementing of the programmes
- The Foundation is to have a Goa focus, but be mining belt specific.
- It will aim at being a nationally recognised, not-for-profit body.
- It will, wherever, possible consider incremental topping up of governmental efforts to improve mining region conditions, and will also be open to offers from government to assist the Foundation, financially or in kind, in its environmental and social investment programmes.
- While the Foundation will not name the beneficiaries of its projects, it hopes that through an identification of the spatial boundaries for its operations, the beneficiaries will be automatically defined as those living and working in that area. It will also identify the functional boundaries.
- The Foundation will have an indefinite lifetime.
- The Foundation needs to have a detailed project review process, which should be communicated to the public.
- The Foundation also needs to regularly inform the public of its activities through a published annual report and other activities.

Evaluation

It is imperative that the Foundation has a regular process of evaluation. Four types of evaluations are necessary:

- The evaluation of proposals that are received for funding. This is discussed in Section 6.
- Audits- financial and social - of projects during implementation and at conclusion to ensure effective management and attention to possible unintended adverse impacts.
- Regular evaluation of the programme of the Foundation to ensure that its priorities are appropriate
- Regular evaluation of the operation of the programme to ensure its efficiency and effectiveness.

Legal form

A trust is not recommended for the Foundation even though it is the easiest to set up and administer. This is because many companies are providing the initial corpus and no single person can be the settlor. A non-profit company is also not being recommended because it is procedurally more difficult and expensive to administer as the provisions of the Companies act will have to be adhered to. TERI recommends that the Foundation be set up as a Society. The reasons are as follows:

- A society has a corporate appearance
- It is simple to set up
- The administration is simple and inexpensive
- The objects can be modified to meet changing situations
- The winding up procedure is simple and profits are given to another similar society
- A society can easily be amalgamated with another similar society

Section 12A and 80G clearance application can be made only months after the foundation comes into existence. Tentatively, clearance is given for one year and then renewed for the next and after that for 3 years. So the foundation will be set up with a minimum sum. After 6 months, when Section 12A and 80G permission is granted then the money can flow into the corpus. Section 80G is the only exemption they are entitled to until they have specific projects sanctioned under Section 35AC etc by the prescribed authority.

Foundation governance

Governance has two chief elements: overall supervision of management, and accountability for the conduct and policies of the organization to all those who have a stake in it (Gupta, 1997). In the context of a Foundation the main stakeholders are: the donors, the managers, the government and the general public. The proposed Foundation needs to have complete freedom of decision with regard to its activities, subject to it following the programme guidelines. The only obligation the Foundation should have to the GMOEA/GMA is accountability in terms of serious, concrete and purposeful use of the funds donated by the mining companies. The Governing Council does not and should not manage the Foundation, but needs to ensure that the Foundation is being managed properly at two levels: (Gupta, 1997)

1. At the internal level of efficient resource use
2. At the social accountability level of conforming to society's objectives and values and of achieving a proper balance of interests.

At the internal level it needs to:

- Oversee and evaluate executive management
- Set long term strategies
- Remove non-performing top management
- Serve as a sounding board

At the social accountability level it needs to:

- Ensure that the Foundation's activities are consistent with its statement of purpose
- Regularly review the policies, programmes, and operations of the Foundation
- Promote, raise funds and inform the public about the purpose, programme, use of funds and activities of the Foundation. An annual report should be available on request
- Ensure that the funds are used so as to address both current and future needs and resources in planning for continuity

Governance structures

Two suggestions for the governance of the Foundation are given below and it is for the GMOEA/GMA to take a decision regarding the option that best suits them.

Governance structure for foundation - I

Board: 8 members; Composition: 3 persons from GMOEA/GMA, 3 from government (central and/or state (mines, environment and *Panchayat*), and 2 from civil society (NGOs, academia, local community,)
One of the members is elected Chairman. One of the persons nominated from GMOEA/GMA should represent the company that most contributes to the Funds of the Foundation. The Board & Chairman serves for 3 years and can be re-appointed. The Board guides the work of the foundation and is responsible for all issues relating to the foundation. The Board appoints a Chief Executive Officer (CEO) to take responsibility for the management on a daily basis.
The CEO can also be assisted by an organisation/organisations that provides technical advice and screens project applications or through a Technical Committee. The Committee can be structured as follows: It can have 9 members comprising the following:

1. Chairman of the Governing Council
2. The Director or Chief Executive Officer (CEO) of the Foundation
3. 2 programme officers employed by the Foundation
4. 2 State Government Representatives – Collector from North and South Goa
5. 2 Community Representatives who serve for a period of 2 years
6. 1 technical expert who is invited to be part of the Committee

Governance structure – II

In a more strict relation with the donors, the governance structure can be a two tier arrangement as given below:

A: Governing Council
B: Technical Committee

A: Governing Council
In this structure the Governing Council can have 7 members. These can be chosen as follows:

1. Elected members of GMOEA/GMA: 4
2. State Government: 1
3. Central government: 1
4. Eminent citizen/Technical expert: 1

The Chairman is elected by the members of the Governing Council

B. Management / Technical Committee: 8 members

1. Chairman of the Governing Council
2. The Director or Chief Executive Officer (CEO) of the Foundation
3. 2 project engineers employed by the Foundation
4. 2 State Government Representatives – Collector from North and South Goa
5. 2 Community Representatives who serve for a period of 2 years
6. Secretary of the GMOEA

In both options, the Executive can be as follows:
A paid Director or CEO and a core staff of programme officers.

The Role of the Governing Council can be as follows:

- Guides the work of the Foundation
- Is responsible for all issues relating to the Foundation
- Appoints a CEO to take responsibility for the management on a daily basis
- Oversees and evaluates executive management and removes non-performing top management
- Serves as a sounding board
- Sets long -term strategies
- Ensures that the Foundation activities are consistent with its statement of purpose
- Regularly reviews the policies, programmes and operation of the Foundation
- Promotes, raises funds and informs the public about the purpose, programme, use of funds and activities of the Foundation
- Ensures that the funds are used so as to address both current and future needs and resources in planning for continuity
- Accountability for the conduct and policies of the organisation to all those who have a stake in it.

In identifying potential Council members, the following qualities suggested by Nason and by Lala need to be kept in mind:[12] [13]

1. Interest in and concern for the Foundation and its fields of operation and ability to develop a group of highly motivated individuals
2. Understanding of the area of the special purpose foundation
3. Objectivity and impartiality
4. Special skills among the members in management, investments, budgets and the law
5. A capacity for arriving at and accepting group decisions; to decide on grants as a group. When in doubt to appoint a reliable and knowledgeable expert
6. Willingness to give time and thought to the foundation's affairs
7. Practical wisdom – the ability to see the whole picture, recognize the validity of opposing arguments, temper the ideal with what is realistic
8. Commitment to the foundation as a whole and not special interests or constituencies
9. Commitment to the field of private foundations; Assess work and character and potential of grantee; advise and assist the grantee in the task, and be flexible to development even during the period a grant is operating
10. Moral sensitivity to the act of giving and the need for giving, and in particular, humility and a recognition that those who work in the field and come for a grant are doing a more arduous task than of giving and considering a grant.
11. Hold integrity as the highest value

[12] J. Nason, Foundation Trusteeship, quoted in Freeman `handbook on private Foundations' p 5 (http://fdncentre.org/onlib/bookshelf/freeman/text.html)

[13] R M Lala `The Human Side of Grant Making' Philanthropy, November – December 1999, p 2. (R M Lala is the Chairman and Director of Sir Dorabji Tata Trust)

5 Programme guidelines

The activities of the foundation need to follow the following criteria in order to ensure that the objectives of the Foundation are met.

Criteria for activities

- The programme will be focussed on the mining regions in Goa
- The activities to be supported will not include those that mine companies are obliged to undertake in fulfilment of regulatory requirements
- The interventions proposed need to be studied for their effectiveness and sustainability
- The programme may include activities that support governmental and/or private and voluntary initiatives in the mining region that relate to the improvement of the quality of life in the region
- Activities will support both preventive and curative approaches to environmental management.
- The programme should have an interest in promoting consensus among various stakeholders and in bringing different constituencies together
- The programme will support initiatives to develop a responsible informed set of citizens
- The programme will support initiatives to help improve the conditions of women, old people and the youth in the region
- The programme will support community and grassroots initiatives

Based on interviews with members of the GMOEA, government officials and on some of the recommendations of the AEQM study done by TERI, we suggest the following areas to be supported by the Foundation.

1. Environmental improvement

2. Community development

3. Responsible management practices

Environmental Improvement

Objective

To reduce threats posed by mining on environment and human health

Priorities

- To support efforts to reduce dust pollution
- To support efforts to improve quality of water bodies
- To support efforts to improve over burden management
- To support programmes for the rehabilitation of abandoned mine sites
- To foster research, education, training and the exchange of information on sustainable approaches to mining
- To promote research related to environmental science and technology issues
- To encourage responsible environmental management
- To maintain a data warehouse on environmental aspects of mining in Goa
- To foster environmental management expertise in the Goan mining industry
- To facilitate constructive discussion between industry, government and the community on environmental issues.

Geographic focus:

Goa, with particular focus on mining *talukas*.

Box 5.1 highlights some of the projects that may be undertaken by the Foundation.

Box 5.1 Suggestions for Implementation projects

Implementation projects

- The rehabilitation of dumps
- Green belts around all road corridors
- Dust control
- The desilting of stream and nallahs;
- The rehabilitation of mine sites

Research projects

- Baseline data studies and information on runoff, soil erosion and siltation.
- Development of ground water models for mining areas to assess impacts due to future operations.

Community development

Objective

To develop local communities and local economy

Priorities

- To support initiatives to develop and strengthen local economies
- To support efforts at finding solutions to local water shortages
- To develop educational initiatives, support *balwadis*, women's education
- To support health initiatives, both preventive and curative measures
- To support local initiatives at enhancing local capacity and skills, training centres
- To contribute to government programmes that promote community development in the mining regions of Goa
- To work with state and local government and communities to help develop sustainable local economies
- To support growth of co-operative societies to develop activities such as
  (a) herb gardens
  (b) spice gardens
  (c) dairy products
  (d) horticulture
  (e) floriculture
  (f) mushroom cultivation and others
- To support the integrated development of watersheds.

Geographic focus

Mining *talukas* of Goa.

Box 5.2 puts forward some more suggestions that have emerged from our earlier studies in the mining region.

Box 5.2 Some suggestions for community development

- Setting up of small and medium industries for agro-based products.
- Building blocks from overburden material.
- Engineering units, etc. should be promoted.
- Dairy development projects in mining villages can be encouraged.
- 2 mini multi skill institutes in North and South Goa for pottery, basket weaving, candle making, packaging and courses such as tailoring, food processing and driving.
- Constructing borewells in selected villages. This borewell could have an attached pipeline with water taps at regular intervals.
- If there is clean pit water, this could then be pumped via a pipeline to the village.
- Constructing public toilets.
- Basic health services: a well-equipped First Aid kit is maintained in all villages; weekly visit from a doctor; emergency health facilities.
- A vigorous literacy campaign in villages where illiteracy is high.
- Provision of consumables and infrastructure in schools.
- Scholarships for higher education for deserving persons from the region.
- Providing solar cook stoves.
- Street lighting in main roads where there is a certain degree of traffic even after sun down; areas near watercourses should also be lit to prevent accidents.
- Roads in and around a settlement; road leading to community buildings public toilets, etc.

Responsible management practice

Objective:

To foster within the Goan mining industry responsible and consistent environmental management and social development practices.

Priorities:

- To support programmes for the training of mine employees in responsible environmental management and social development practices.
- To foster initiatives aimed at assisting smaller mining companies to meet their responsibilities

Geographic focus:

Mining regions of Goa

Since the Foundation will combine elements of a donor and an implementation Foundation, it can associate itself with local NGOs and government agencies, such as the Goa Dairy Development Organisation, Goa Watershed Development Society, Department of Science, Technology & Environment through its programmes on the Integrated management of sustainable development of watershed societies, and with the ICAR

6 Project review process

This section discusses the process that can be followed in reviewing proposals for projects. The process suggested here is that which is followed in similar and successful Foundations.

Accepting proposals for projects

The Foundation can follow both or one of the following in accepting proposals:

1. By issuing a call for proposals to undertake certain projects, with a given time frame and terms of reference. It then short lists the organisations it is interested in and asks them to submit a detailed proposal, which is then reviewed.
2. It allows unsolicited proposals or requests for project within its programme of activities. Applications can be received throughout the year, but they will be reviewed and projects will be prioritised twice in a year. Normally applicants may expect to receive within six weeks an indication of whether their proposals are within the Foundation's program interests and budget limitations. In this case, before a request is made for a project, a brief letter of inquiry or a concept note is advisable to determine whether the Foundation's present resources permit early consideration of the request.

Concept note or letter of interest

The letter or note should include:

- The purpose of the project
- Issues the proposed project will address
- Information about the organization proposing the project
- Estimated overall budget for the project
- Suggestion of those who may be engaged to assist project implementation

After receiving the letter, Foundation staff members will review it to see if it fits with themes of the Foundation and may ask the applicant to make revisions and/or submit a formal proposal.

The proposal

Whether it is a call for proposals or an unsolicited request, the proposal should include:

- A description of the proposed project
- project benefits envisaged by the applicant
- Project cost estimates
- Legal and tax status of the applicant
- Audited accounts

Reviewing project proposals

The first step within the Foundation once the proposal is received is desk approval where the proposal is scrutinized. In case more clarity if needed it is done so by raising questions. Further a visit to the organisation/ study area may be embarked on to collect background information. This is followed by an internal group meeting with the Technical Committee. The Programme Officers can then represent the applicant at the meeting of the Governing Council. The mode of Project implementation disbursement of funds is decided upon. In order to review a project the expertise of a specialized person from that field is taken. The implementation period will depend on the nature of the project.

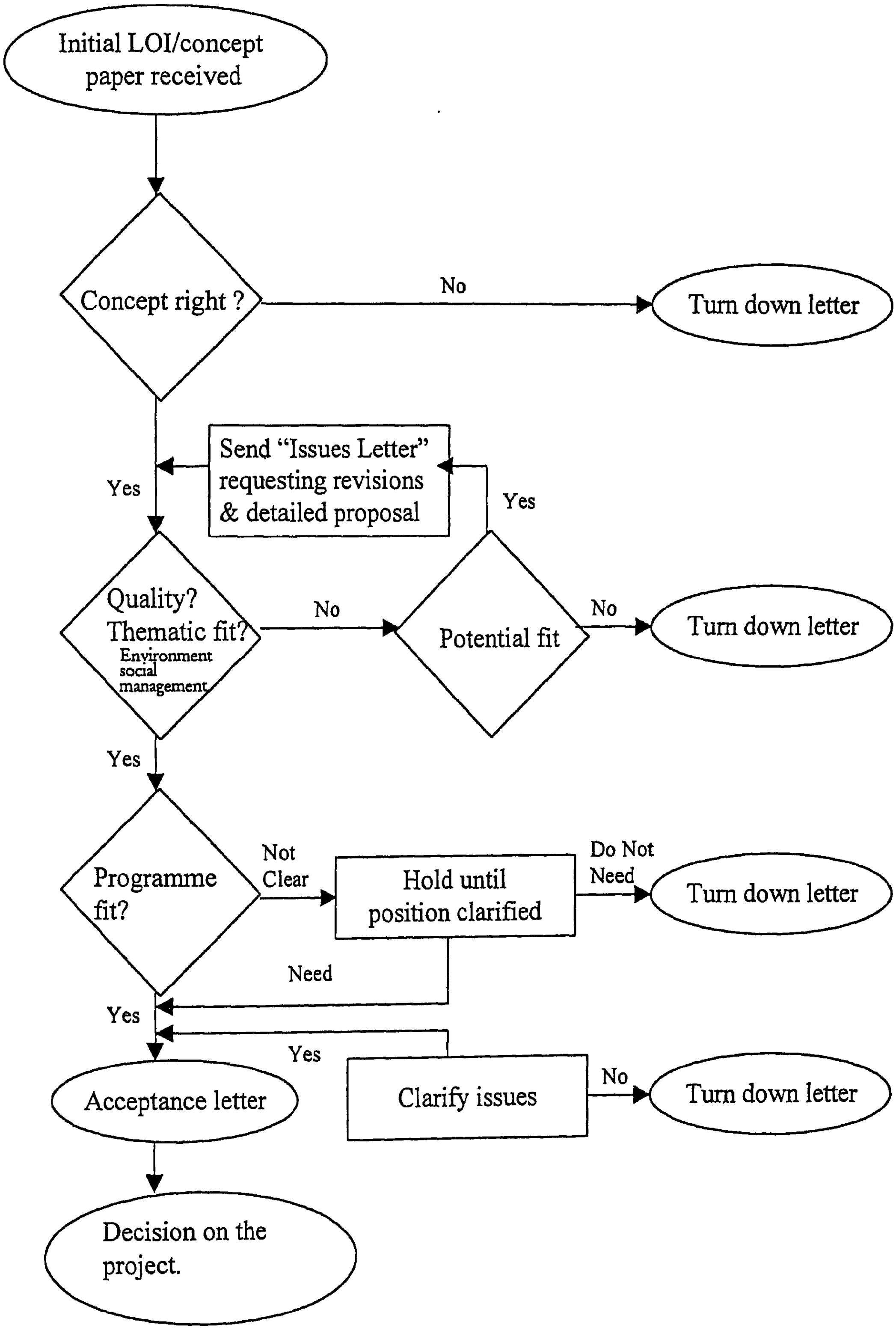
Bi-annual review of projects. Applications can be received throughout the year, but they will be reviewed on a 6 monthly basis. This is to allow projects to be prioritised and decisions made regarding funding. Normally applicants may expect to receive within six weeks an indication of whether their proposals are within the Foundation's program interests and budget limitations.

At times the approval for a project may be got through a circular route where there is no need to wait till the board meets. This helps to avoid delay in the sanctioning of projects.

Progress reports

Regular progress reports from the implementing team along with statement of accounts are required.

Figure 6.1: Overview of the project decision process



Source. Slightly modified from NickSalafsky and Richard Margoluis (1999)

7 Funding for the Foundation

From the literature, it is evident that the following mechanisms work well in the funding of Foundations. We have added some more in the context of this Foundation.

- A secure and predictable income over an extended period of time, such as an endowment/corpus fund on which it can either draw on over a fixed period, or spend the accumulating interest.
- Gearing of annual financing to controllable factors, such as output, rather than those outside the influence of GMOEA, such as commodity price or profits.
- Contributions from central/ state government in terms of matching grants, cess funds, contribution from royalty payments etc.
- Possibilities for attracting funds from outside agencies, especially from countries to whom ore is exported, e.g., Japan

ınding mechanisms

We suggest that the Foundation have 3 sources of funding:
A corpus fund, an annual contribution from the mining companies, outside funding either directly to the corpus or on a project basis.

1. A **corpus fund** should have contributions from GMOEA and GMA members This can have 2 components:

- Flat fee per lease on all mine leases of Foundation members
- Contribution on the basis of output/tonnage using a slab scale: ,

In addition to this other associations relating to mining activity can make contributions to the corpus fund.

2. An annual contribution on the basis of tonnages produced. The structure can be flexible: either a higher corpus with a lower annual contribution or a lower corpus with a higher annual contribution. If at any point the Foundation finds that it is unable to utilize its funds, the annual contributions can be reduced. Conversely, the annual contributions can be raised if necessary.

3. Funds from outside: The Foundation needs to plan to attract some donations from other sources and leverage funds from government, civil society and bi-lateral organisations, international agencies through partnering with them on the basis of 'additionality".

The actual quantum of funding for the Foundation and the member contributions will be determined at a later date by the members.

Possible allocation of funds

Since the prime objective of this Foundation is to remediate some of the environmental damages and enhance environmental management practices and to foster community development, the bulk of the funds should be used for implementation projects. The allocation that we suggest is as follows:

1. Implementation projects: 85% O f this 60% should go for environmental improvements; 30 % to community development projects and 10% to support responsible management practices
2. Research projects: 5%
3. Operational costs: 10%

The Foundation needs to have a solid plan of action and supportive funding. An incremental, approach will turn out to be counterproductive.

8 Summary and conclusion

This report has suggested a framework for a Minerals Foundation. The main idea of this Foundation is to support and implement projects enhancing environmental management practices and support community development programmes in the mining regions of Goa. The framework has been designed based on a survey of such foundations in mining and other sectors in various parts of the world, and those features have been selected that are most appropriate to the situation in Goa. The design also emerged from interaction with members of the mining industry, government officials and other organizations. The pre-sorted issues from this survey were discussed with GMOEA along with the initial recommendations of TERI. Based on feedback from the GMOEA on the draft final report, and the changes suggested, this final version has been prepared.

The main features for the Minerals Foundation suggested are:

- An implementing foundation with the actual work done by NGOs, co-operative societies, research bodies and local communities
- The legal form will be a society
- The governance structure will represent the GMOEA/GMA, government officials, and civil society so that tri-sector partnerships can be forged
- A Chief Executive Officer will be appointed to take responsibility for the management on a daily basis. The CEO can be assisted by an organization/organizations that provides technical advice, and a core staff of programme officers and office assistants
- The core programme will consist of environmental and community development projects.
- The Foundation should have a corpus fund and an annual contribution from the mining companies. This can be flexible: either a higher corpus with a lower annual contribution or a lower corpus with a higher annual contribution.
- If at any point the Foundation finds that it is unable to utilize its funds, the annual contributions can be reduced. Conversely, the annual contributions can be raised if necessary.

The Minerals Foundation is a significant development in the mining history of Goa. It can be an important vehicle for the enhancement of environment remediation as well as social investment programmes in the mining region. It has to be appreciated that if the Foundation is to make a difference to the mining belt, it needs to have a solid plan of action and supportive funding. An incremental, approach may turn out to be counterproductive.

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usa, Goa University
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